

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

TELCO GROUP INC.,	)	
	)	
Plaintiff,	)	8:05CV387
	)	
vs.	)	ORDER
	)	
AMERITRADE, INC.,	)	
ADVANCED CLEARING INC. and	)	
AMERITRADE HOLDING CORP.,	)	
	)	
Defendants.	)	

This matter is before the court on the plaintiff's motion, filed in letter format, for an extension of the deadline to file a motion for class certification (Filing No. 37). The plaintiff contends additional time is needed to complete discovery on the issues surrounding class certification. The plaintiff also filed a motion to compel (Filing No. 38). The plaintiff seeks an extension of the deadline to file a motion for class certification until twenty days after the defendants provide the discovery demanded in the motion to compel. The court will grant the plaintiff an extension until a reasonable time after the court rules on the pending motion to compel to file a motion for class certification.

The court notes the plaintiff filed the motion for extension as a letter. Previously, the court warned counsel that all “[f]uture motions and briefing shall comply with Nebraska local rule 7.1 (NECivR).” **See** Filing No. 33 n.1. Letters are not an acceptable form for motion practice before this court. The Federal Rules of Civil Procedure require that “[a]n application to the court for an order shall be by motion. . .” Fed. R. Civ. P. 7(b). All motions shall be filed in the procedure described in the Nebraska local rules, specifically NECivR 7.1, which states “a party who fails to observe the requirements of this rule may be deemed to have abandoned in whole or in part that party’s position on the pending motion.” Hereafter, improperly filed applications for court orders will not be considered on the merits unless they are filed in accordance with the Federal Rules of Civil Procedure and the Nebraska local rules. Upon consideration.

**IT IS ORDERED:**

1. The plaintiff's motion for an extension of time (Filing No. 37) is granted as set forth below.

2. The deadline for the plaintiff to file a motion to certify class is stayed. The motion and briefing schedule for the plaintiff's motion to certify class will be established for a reasonable time period after the court resolves the plaintiff's pending motion to compel (Filing No. 38).

DATED this 29th day of November, 2005.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge